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BILL LOCKYER
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May 20, 2002

FMCSA-01-11060-18

VIA FACSIMILE & U.S. MAIL

Honorable Julie Anna Cirillo, Deputy Administrator
Federal Motor Carrier Safety Administration
c/o Docket Clerk
U.S. DOT Dockets
Room PL-401
400 Seventh Street, S.W.
Washington, D.C. 20590-0001

DEPT. OF TRANSPORTATION
MAY 20 PM 4:49

**RE: Docket Nos. FMCSA 98-3298, 3299; FMCSA 2001-11060; and
NHTSA-02-11592, 11593**

Dear Deputy Administrator Cirillo:

California Attorney General Bill Lockyer, acting in his independent capacity to protect the natural resources of the State of California, respectfully submits the attached additional comments in reference to the above-mentioned dockets.

Please contact me if you have any questions regarding this matter.

Sincerely,

EDWARD H. OCHOA
Deputy Attorney General

For **BILL LOCKYER**
Attorney General

Enclosure

MAY-20-2002 MON 01:25 PM ARB COMPLIANCE DIV

FAX NO. 916 445 5745

P. 01



Winston H. Hickox
Agency Secretary

Air Resources Board

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Gray Davis
Governor

SENT VIA: E-MAIL: Ed.Ochoa@doj.ca.gov, FAX to 619/645-2012 and U.S.P.S.

May 20, 2002

Mr. Ed Ochoa
Deputy Attorney General
State of California
Department of Justice
110 West A Street, Suite 1100
P.O. Box 85266
San Diego, CA 92186-5266

Re: Docket Nos. FMCSA 98-3298; 98-3299; and 2001-11060

Dear Mr. Ochoa:

The following information is provided in reference to the above captioned docket numbers. This information provides clarification regarding a few points concerning the Air Resources Board's (ARB's) Heavy-Duty Vehicle Inspection Program (HDVIP), and particularly how it relates to Mexican registered vehicles traveling into California at the California-Mexican (CA-MX) border crossings.

The ARB administers the HDVIP throughout the state at California Highway Patrol (CHP) weigh stations, ports of entry, fleets and at random roadside locations. We currently maintain full-time inspection operations at the CA-MX border entry sites of Otay Mesa and Calexico as required by SB 270 (Peace) of 1998. Under this program, heavy-duty diesel vehicles are inspected for tampering, and undergo a smoke emissions opacity test. Owners of vehicles that exceed the specified limits (55% opacity for pre-1991 model year engines and 40% for 1991 and later model year engines) and/or exhibit signs of emission control systems tampering, are issued a citation, are required to bring their vehicles into compliance within 45 days and pay a civil penalty ranging from \$300 to \$1800. All vehicles travelling on California highways are subject to this program, including vehicles based in other states and in foreign countries.

It is important to note that the smoke emission opacity tests performed under the HDVIP are not traditional "smog checks", such as those that are performed on passenger vehicles within California. A "smog check" test evaluates the chemical components of a vehicle's exhaust, while the HDVIP test simply measures the opacity of the exhaust emitted from the heavy-duty diesel vehicle's stack, and includes a visual inspection of the emission control system to detect tampering. For more information on this program, please visit our web page at: www.arb.ca.gov/enf/enf.htm.

MAY-20-2002 MON 01:26 PM ARB COMPLIANCE DIV

FAX NO. 916 445 5745

P. 02

Mr. Ed Ochoa
Deputy Attorney General

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May 20, 2002

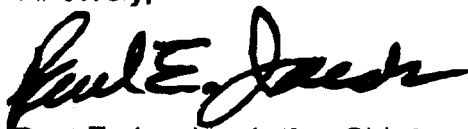
Commercial motor carriers from Mexico that fail either the opacity test or the tampering inspection are issued a citation, but are still allowed to enter California under existing law and its restrictions. The ARB enforcement staff provides follow up actions to make sure that the citation is cleared and that the vehicle is brought into compliance. For violators that fail to comply and clear their citations, the ARB can request that the CHP remove the vehicle from service.

While we would ideally prefer to test every vehicle entering at these border sites that exhibits questionable levels of smoke emissions, we do not currently have the staff resources available to perform this level of service. As such, our inspectors perform a visual assessment of the emissions from the incoming vehicles, and complete inspections on as many of the most offensive violators as possible.

With regard to your question as to whether or not all heavy-duty diesel vehicles are inspected for United States Environmental Protection Agency (U.S. EPA) emissions certification, they are not. If a vehicle owner applies for dual registration (CA-MX), and that vehicle has fewer than 7,500 miles (which, under California law classifies the vehicle as "new"), the emissions label is inspected by the DMV and the engine must meet California or 50-State U.S. EPA emissions standards. Similarly, those vehicles that are inspected under the ARB's HDVIP, are subject to an emissions label inspection.

I hope that this provides sufficient information to answer your questions. Please don't hesitate to contact me if you need further assistance. I may be reached at (916) 322-7061, or via e-mail at pjacobs@arb.ca.gov, or you may contact Ms. Elizabeth F. Miller of my staff at (916) 323-8541 or efmiller@arb.ca.gov.

Sincerely,



Paul E. Jacobs, Acting Chief
Enforcement Division

cc: Ms. Kathleen Walsh,
General Counsel,
Air Resources Board

Ms. Mary Hackenbracht,
Senior Assistant Attorney General
Department of Justice
1515 Clay Street
Oakland, CA 94612-1413